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Rules, Regulations, Orders

TITLE 7—AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS

[Order No. 13, as Amended]

MARKETING ORDERS

PART 913—ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE KANSAS CITY, MISSOURI, MARKETING AREA*

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Whereas, H. A. Wallace, Secretary of Agriculture of the United States of America, pursuant to the provisions of Title I of Public Act No. 10, 73d Congress, as amended (48 Stat. 31), issued on November 3, 1936, Order No. 13¹ regulating the handling of milk in the Kansas City, Missouri, marketing area, said order being effective December 1, 1936; and

Whereas, the Secretary on the 17th day of August 1936 tentatively approved the marketing agreement regulating the handling of milk in the Kansas City, Missouri, marketing area; and

Whereas, the Secretary having reason to believe that said marketing agreement and said order should be amended, gave, on the 7th day of March 1939, a notice of hearing which was held at Kansas City, Missouri, on the 16th and 17th days of March 1939, on certain

* Section 913.0 to and including Section 913.12 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. § 601 et seq. (Supp. IV 1938).

¹ 4 F.R. 1722 DI.

proposed amended provisions of said tentatively approved marketing agreement and of said order, said hearing being reopened² at Kansas City, Missouri, on the 22d, 23d, and 24th days of May 1939, for the purpose of receiving additional evidence, and at said time and place conducted public hearings at which all interested parties were afforded an opportunity to be heard on said proposed amended provisions; and

Whereas, at such hearings and after the tentative approval on the 26th day of July 1939, by the Secretary of a marketing agreement, as amended, handlers of more than 50 percent of the volume of milk covered by such order, as amended, which is marketed within the Kansas City, Missouri, marketing area refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk; and

Whereas, the Secretary determined³ on the 26th day of August 1939, said determination being approved by the President of the United States on the 26th day of August 1939, that said refusal or failure tends to prevent the effectuation of the declared policy of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), and that this order, as amended, is the only practical means pursuant to such policy of advancing the interests of producers of milk in said area and is approved or favored by over 67 percent of the producers who, during the month of February 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Kansas City, Missouri, marketing area; and

Whereas, the Secretary finds upon the evidence introduced at the above-mentioned hearings, said findings being in addition to the findings made upon the evidence introduced at the hearings on said order and to the other findings made prior to or at the time of the original issuance of said order (which findings

² 4 F.R. 2034 DI.

³ See page 3771.

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are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

§ 913.0 *Findings.* 1. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices set forth in this order, as amended, are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

2. That the order, as amended, regulates the handling of milk in the same manner as and is applicable only to handlers specified in the tentatively ap-

proved marketing agreement, as amended, upon which hearings have been held; and

3. That the issuance of the order, as amended, and all of its terms and conditions will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture pursuant to the powers conferred upon him by the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that such handling of milk in the Kansas City, Missouri, marketing area, as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate commerce, shall from the effective date hereof be in compliance with the following terms and conditions:

§ 913.1 *Definitions.*—(a) *Terms.* The following terms shall have the following meanings:

(1) The term "Kansas City, Missouri, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the city of Kansas City, Missouri.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The term "producer" means any person who, in conformity with the health regulations of the city of Kansas City, Missouri, under a permit issued by the proper health authorities of said city, produces milk which is received in bulk by a handler. This definition shall be deemed to include any such person who produces milk which a cooperative association or handler causes to be delivered to a plant from which no milk or cream is disposed of in the marketing area.

(4) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk or cream in the marketing area; and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include any cooperative association or handler with respect to the milk of any producer which it causes to be delivered to a plant from which no milk or cream is disposed of in the marketing area, for the account of such cooperative association or handler and for which such cooperative association or handler collects payment.

(5) The term "market administrator" means the person designated pursuant to Sec. 913.2 as the agency for the administration hereof.

(6) The term "delivery period" means the current marketing period from the first to, and including, the last day of each month.

(7) The term "base" is the quantity of milk calculated for each producer pursuant to Sec. 913.7 (d).

(8) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

(9) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(10) The term "Secretary" means the Secretary of Agriculture of the United States.

§ 913.2 *Market administrator.*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) *Duties.* The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by Sec. 913.10, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 913.5 or (b) made payments pursuant to Sec. 913.8.

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 913.3 *Classification of milk.*—(a) *Basis of classification.* Milk of a producer which a handler causes to be delivered to a plant from which no milk or cream is disposed of in the marketing area and milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of milk containing more than 1 percent of butterfat.

(2) Class II milk shall be all milk, except skim milk, used to produce cream which is disposed of in the form of cream, flavored milk, creamed cottage cheese, creamed buttermilk, aerated cream, and eggnog.

(3) Class III milk shall be all milk not accounted for as Class I milk or Class II milk.

(c) *Interhandler and nonhandler sales.* Milk of a producer disposed of by a handler to another handler, and milk disposed of by a handler to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified, subject to paragraph (d) of this section, as Class I milk: *Provided*, That if the selling handler, on or before the 5th day after the end of the delivery period, furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

(d) *Sales of a cooperative association to any other handler.* Milk caused to be delivered from a producer to a handler by a cooperative association which is a handler shall be ratably apportioned among the receiving handler's total Class I, Class II, and Class III milk.

§ 913.4 *Minimum prices.*—(a) *Class prices.* Except as set forth in paragraph (b) of this section, each handler shall pay, at the time and in the manner set forth in Sec. 913.8, not less than the following prices for milk received at such handler's plant or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area:

Class I milk—\$2.20 per hundredweight; *Provided*, That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be not less than \$1.95 per hundredweight.

Class II milk—\$2.05 per hundredweight.

Class III milk—The price per hundredweight which shall be calculated by the market administrator as follows: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 25 cents.

(b) *Sales outside the marketing area.* The prices to be paid by handlers for Class I milk and Class II milk disposed of during the delivery period in the territory lying within a radius of 5 miles

of the corporate limits of Kansas City, Missouri, excepting that territory lying within the corporate limits of Kansas City, Kansas, shall be the prices for Class I milk and Class II milk set forth in paragraph (a) of this section. The prices to be paid by handlers for Class I milk and Class II milk disposed of during the delivery period in territory lying beyond 5 miles of the corporate limits of Kansas City, Missouri, and in territory lying within the corporate limits of Kansas City, Kansas, in lieu of the prices otherwise applicable pursuant to paragraph (a) of this section, shall be, as ascertained by the market administrator, such prices as were paid to farmers in the market where such milk was disposed of, for milk of equivalent use.

§ 913.5 *Reports of handlers.*—(a) *Periodic reports.* On or before the 5th day after the end of each delivery period each handler, with respect to milk or cream which was, during such delivery period, (a) received from producers, (b) received from handlers, (c) produced by such handler, and (d) received from any other source, shall report to the market administrator, in the detail and form prescribed by the market administrator, as follows:

(1) The receipts at each plant from producers who are not handlers, the quantity of milk received from producers in excess of their respective bases and the average butterfat test thereof;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The quantity, if any, produced by such handler;

(4) The receipts at each plant from any other source; and

(5) The respective quantities of milk disposed of in the classes set forth in Sec. 913.3.

(b) *Reports as to producers.* Each handler shall report to the market administrator as follows:

(1) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received; and

(2) As soon as possible after first receiving milk from any producer (a) the name and address of such producer, (b) the date upon which such milk was first received, and (c) the plant at which the milk of such producer was received.

(c) *Reports of payments to producers.* Upon the request of the market administrator each handler shall submit on or before the 20th day after the end of each delivery period his producer pay roll for such delivery period, which shall show for each producer the net amount of such producer's payment

with the prices, deductions, and charges involved.

(d) *Verification of reports.* Each handler shall make available to the market administrator or his agent (a) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (b) those facilities which are necessary for the sampling, weighing, and testing of the milk of each producer.

§ 913.6 *Application of provisions.* (a) With respect to each handler who is also a producer—

(1) The market administrator, before making the computations in accordance with Sec. 913.7, shall (a) exclude the milk purchased or received by him in each class from other handlers, (b) exclude from his remaining Class I milk and Class II milk up to but not exceeding 95 percent of the quantity of milk produced and disposed of by him, and (c) exclude from his remaining Class III milk the balance of the milk produced and disposed of by him.

(2) The market administrator, in computing the value of milk for any handler pursuant to Sec. 913.7, shall consider as Class III milk any milk or cream received in bulk by such handler from a handler who distributes part of his own production but for whom no base has been computed pursuant to Sec. 913.7 (d). If the receiving handler disposes of such milk or cream for other than Class III purposes, the market administrator shall add to the total value computed pursuant to Sec. 913.7 the difference between (a) the value of such milk or cream at the Class III price and (b) the value according to its actual usage.

(b) With respect to any handler who, during the delivery period, disposed of no milk as Class III milk and received from producers milk having an average butterfat content higher than that disposed of as Class I milk or as (3.8 percent milk equivalent of) Class II milk by such handler:

(1) The market administrator shall (a) determine the hundredweight of milk received from producers; (b) determine the hundredweight of milk disposed of as Class I milk and as (3.8 percent milk equivalent of) Class II milk; (c) if the hundredweight of milk determined in (b) of this subparagraph, exceeds the hundredweight of milk determined in (a) of this subparagraph, multiply such difference in the hundredweights of milk by the difference between the Class II price and an amount obtained by multiplying by 38 the butterfat differential as provided in Sec. 913.8 (c) and add such amount to the sum obtained for such handler pursuant to Sec. 913.7 (a).

§ 913.7 *Determination of uniform prices to producers.*—(a) *Computation of value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions

of Sec. 913.6, the value of milk of producers disposed of by each handler by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to Sec. 913.4, and (b) adding together the resulting values of each class: *Provided*, That if any handler has received milk from any producer at a plant approved by the health authorities of Kansas City, Missouri, for the receiving of milk to be disposed of as milk in the marketing area, and located more than 30 miles from the City Hall in Kansas City, Missouri, the market administrator shall deduct, with respect to the hundredweight of fluid milk, fluid cream, and ice cream mix actually moved from such plant to the marketing area, up to but not exceeding the amount per hundredweight specified for the distance of such plant from the City Hall in Kansas City, Missouri, as follows: not more than 45 miles, 17 cents per hundredweight; and for each additional 10 miles, or part thereof, an additional 1½ cents per hundredweight.

(b) *Computation and announcement of the uniform prices.* For each delivery period, the market administrator shall compute and announce the uniform price per hundredweight of milk as follows:

(1) Combine into one total the respective values of milk, computed pursuant to paragraph (a) of this section, for each handler who made the reports prescribed by Sec. 913.5 and who made the payments prescribed by Sec. 913.8;

(2) Add the amount of the adjustments to be made pursuant to Sec. 913.8 (d);

(3) Subtract the total amount to be paid pursuant to Sec. 913.8 (a) (2);

(4) Add the amount of cash balance in the producer-settlement fund less the amount due handlers pursuant to Sec. 913.8 (i);

(5) Divide by the total quantity of milk which is not in excess of the bases of producers and which is included in these computations;

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments, or delinquencies in payments by handlers. This result shall be known as the uniform price for such delivery period for base milk of producers containing 3.8 percent butterfat; and

(7) On or before the 8th day after the end of each delivery period notify all handlers and make public announcement of these computations, of the uniform price per hundredweight of base milk, of the Class III price, and of the butterfat differential computed pursuant to Sec. 913.8 (c).

(c) *Base rating.* For each delivery period the base of each producer shall be a quantity of milk calculated in the following manner: (a) multiply the

applicable figure, effective pursuant to paragraph (d) of this section by the number of days on which milk was received from such producer during such delivery period or (b) if no figure is effective for any producer, who is not also a handler, take the percent of the total milk received from him in bulk during such delivery period which is obtained by dividing the total Class I milk and Class II milk of all handlers by the total milk received by such handlers: *Provided*, That (c) if the total Class I milk and Class II milk of all handlers exceeds the total of base so computed, add thereto, in the case of each producer for whom a figure is effective pursuant to paragraph (d) of this section and from whom milk was received in excess of base, the percentage of his excess milk which is the percentage of the total of such excess milk used by all handlers as Class I milk and as Class II milk.

(d) *Determination for base rating.* For the purpose of calculating, pursuant to paragraph (c) of this section, the bases of producers, including producers who are also handlers, the market administrator shall determine a figure with respect to deliveries of milk in bulk to handlers by each producer as follows:

(1) Effective up to and including June 30, 1936, divide the total deliveries of milk in bulk to handlers during the period of time beginning with November 16, 1935, and ending with February 15, 1936, by the number of days on which deliveries were made and take such a percentage of the result as will make the total of all figures so determined approximately equal to 115 percent of the daily average Class I milk and Class II milk disposed of during the 4th calendar quarter of the calendar year 1935, by all handlers who received such milk;

(2) Effective for each calendar quarter subsequent to June 30, 1936, divide the total milk received from each producer not in excess of his base for the next preceding calendar quarter by the number of days on which milk was received from such producer and take such a percentage of the result as will make the total of all figures so determined approximately equal to 115 percent of the total daily average Class I milk and Class II milk disposed of during the 4th calendar quarter of the next preceding calendar year by all handlers who received such milk;

(3) At the request of any producer who distributes the milk he produces and for whom no figure is effective pursuant to subparagraphs (1) and (2) of this paragraph, divide the total milk received in bulk from such producer by handlers during the three full delivery periods immediately preceding the date of such request by the number of days in such three delivery periods. Any figure determined pursuant to this subparagraph shall be effective through the full calendar quarter immediately fol-

lowing its determination and thereafter shall be superseded by a figure determined pursuant to subparagraph (2) of this paragraph; and

(4) In the case of a producer who distributes the milk he produces and who disposes of all or a part of his delivery routes to a handler, the market administrator shall determine a figure which is the average daily Class I milk and Class II milk produced and disposed of during the previous 3 months on such delivery routes of such producer which such producer and such handler jointly report as involved in the deal, subject to verification by the market administrator. Any figure determined pursuant to this subparagraph shall be effective from its determination until the end of the full calendar quarter next following and thereafter shall be superseded by a figure determined pursuant to subparagraph (2) of this paragraph.

§ 913.8 *Payments for milk—(a) Time and method of payment.* On or before the 10th day after the end of each delivery period, each handler shall make payment, after deducting the amount of the payment made pursuant to paragraph (b) of this section, for not less than the total value of milk of producers received by such handler or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area during such delivery period, computed according to Sec. 913.7 and subject to the differentials set forth in paragraphs (c) and (d), respectively, of this section, as follows:

(1) To producers, at the uniform price per hundredweight computed pursuant to Sec. 913.7 (b), for that quantity of milk received from producers not in excess of their respective bases; and

(2) To producers, at the Class III price, for that quantity of milk received from producers in excess of their respective bases.

(b) *Half-delivery period payments.* On or before the 25th day of each delivery period each handler shall make payment to each producer for the approximate value of the milk of such producer which, during the first 15 days of such delivery period, was received by such handler or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area during the delivery period.

(c) *Butterfat differential.* If any handler has received or caused to be delivered to a plant from which no milk or cream is disposed of in the marketing area, during the delivery period, the milk of any producer having an average butterfat content other than 3.8 percent, such handler, in making payments pursuant to paragraph (a) of this section, shall add to the prices per hundredweight for such producer for each one-tenth of 1 percent of average butterfat content in milk

above 3.8 percent not less than, or shall deduct from such prices for such producer for each one-tenth of 1 percent of average butterfat content in milk below 3.8 percent not more than, an amount computed as follows: add 4 cents to the average price of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and divide the resulting sum by 10.

(d) *Location differentials.* In making payments pursuant to paragraphs (a) (1) and (a) (2) of this section for milk received from producers at plants approved by the health authorities of Kansas City, Missouri, for the receiving of milk to be disposed of as milk in the marketing area, and located more than 30 miles from the City Hall in Kansas City, Missouri, each handler shall deduct, with respect to all milk received from such producers, the amount per hundredweight specified for the distance of such plant from the City Hall in Kansas City, Missouri, as follows: not more than 45 miles, 17 cents per hundredweight; and for each additional 10 miles or part thereof an additional 1½ cents per hundredweight.

(e) *Additional payments.* Any handler may make payment to producers in addition to the payments to be made pursuant to paragraph (a) of this section: *Provided*, That such additional payments shall be uniform as among all producers for milk of the same grade and quality.

(f) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund, known as "the producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to paragraphs (g) and (i) of this section and out of which he shall make all payments to handlers pursuant to paragraphs (h) and (j) of this section.

(g) *Payments to the producer-settlement fund.* On or before the 10th day after the end of each delivery period, each handler shall pay to the market administrator, for payment to producers through the producer-settlement fund, the amount by which the total utilization value of the milk of producers received by such handler or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area during the delivery period is greater than the sum obtained by multiplying the hundredweight of such milk by the appropriate prices required to be paid producers by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts.

(h) *Payments out of producer-settlement fund.* On or before the 10th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, the amount, if any, by which the total utilization

value of milk of producers received by such handler or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area during the delivery period is less than the sum obtained by multiplying the hundredweight of such milk of producers by the appropriate prices required to be paid producers by handlers pursuant to subparagraphs (1) and (2) of paragraph (a) of this section, and adding together the resulting amounts. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 10th day after the end of each delivery period, has not received the balance of such reduced payment from the market administrator, shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund. Nothing in this paragraph shall abrogate the right of a cooperative association to make payment to its member producers in accordance with the payment plan of such cooperative association.

(i) *Adjustment of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (g) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to paragraph (h) of this section, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

§ 913.9 *Marketing services.*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct 3 cents per hundredweight from the payments made to each producer pursuant to Sec. 913.8 (a) (1) and (2), with respect to all milk of such producer received by such handler or caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area during the delivery period, and shall pay such deductions to the market administrator on or before the 10th day after the end of such delivery period. Such moneys shall be expended by the

market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from, said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler shall make the deductions from the payments to be made pursuant to Sec. 913.8 (a) (1) and (2), which are authorized by such producers, and, on or before the 10th day after the end of each delivery period, pay over such deductions to the associations of which such producers are members.

§ 913.10 *Expense of administration.*

(a) *Payments by handlers.* As his pro-rata share of the expense of the administration hereof, each handler who received milk from producers, with respect to all milk received from producers, produced by such handler, and caused to be delivered by such handler to a plant from which no milk or cream is disposed of in the marketing area, during the delivery period, shall pay to the market administrator, on or before the 10th day after the end of such delivery period, an amount not exceeding 2 cents per hundredweight, which amount shall be determined by the market administrator, subject to review by the Secretary. As its pro-rata share of the expense of administration hereof a cooperative association which is a handler shall pay to the market administrator, on or before the 10th day after the end of the delivery period, with respect to the milk of any producer which it causes to be delivered to a plant from which no milk or cream is disposed of in the marketing area during the delivery period, an amount per hundredweight equivalent to that required to be paid by other handlers pursuant to this paragraph.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expenses set forth in this section.

§ 913.11 *Effective time, suspension, or termination of order, as amended.*

(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination of order, as amended.* The Secretary may suspend or terminate this order, as amended, or any provision hereof, whenever he finds that this order, as amended, or any provision hereof, obstructs, or does not tend to effectuate the declared policy of the act. This order, as amended, shall terminate, in

any event, whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate,

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 913.12 *Liability*—(a) *Liability of handlers.* The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, Harry L. Brown, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, as amended, under his hand and the official seal of the Department

of Agriculture, in the city of Washington, District of Columbia, on this 28th day of August 1939, and declares this order, as amended, to be effective on and after the 1st day of September 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3171; Filed, August 29, 1939;
9:14 a. m.]

[Order No. 41]

MARKETING ORDERS

PART 941—ORDER REGULATING THE HANDLING OF MILK IN THE CHICAGO, ILLINOIS, MARKETING AREA*

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Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary of Agriculture, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Chicago, Illinois, marketing area would tend to effectuate

the declared policy of said act, gave, on the 9th day of June 1939, notice of a public hearing¹ which was held at Chicago, Illinois, from June 26 through June 30, 1939, at which time and place all interested parties were afforded an opportunity to be heard on a proposed marketing agreement and a proposed order; and

Whereas, after such hearing and after the tentative approval on the 18th day of August 1939, by the Secretary, of marketing agreement, handlers of more than fifty percent of the volume of milk covered by such order which was marketed within the Chicago, Illinois, marketing area, as defined in this order, refused or failed to sign such tentatively approved marketing agreement relating to milk; and

Whereas, the Secretary determined,² on the 24th day of August 1939, said determination being approved by the President of the United States on the 26th day of August 1939, that said refusal or failure tends to prevent the effectuation of the declared policy of said act, that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area, and that this order is approved or favored by over 67 percent of the producers voting in a referendum conducted by the Secretary, who, during the month of April 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Chicago, Illinois, marketing area; and

Whereas, the Secretary has found and proclaimed the period August 1919-July 1929 to be the base period to be used in determining the purchasing power of milk sold in the Chicago, Illinois, marketing area; and

Whereas, the Secretary herewith finds that a pro-rata assessment on handlers, as set forth in section 9 of this order, at a rate not to exceed 2 cents per hundred-weight on all milk received from producers during each delivery period, will provide funds necessary to pay such expenses, while such order is in effect, as will necessarily be incurred by the market administrator under such order for the maintenance and functioning of said market administrator; and

§ 941.0 *Findings.* Whereas, the Secretary finds upon the evidence introduced at said public hearing:

1. That all milk which was produced for sale in the marketing area is handled in the current of interstate commerce, or so as directly to burden, obstruct, or affect interstate commerce in milk or its products;

2. That the prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to sections 2 and 8e of said act, are not reasonable in view of the price of feeds, the available sup-

*Section 941.0 to and including Section 941.13 issued under the authority contained in 48 Stat. 31 (1933), 7 U.S.C. 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937), 7 U.S.C. 601 et seq. (Sup. IV 1938).

¹ 4 F.R. 2366 DI.

² See page 3770.

plies of feed, and other economic conditions which affect market supply of and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

3. That this order regulates the handling of milk in the same manner as, and is applicable only to handlers defined in the marketing agreement upon which hearings have been held; and

4. That orderly marketing conditions for milk flowing into the Chicago, Illinois, marketing area are so disrupted as to result in the impairment of the purchasing power of such milk and that the issuance of this order, and all of its terms and conditions, will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that such handling of milk in the Chicago, Illinois, marketing area as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, conform to and be in compliance with the following terms and conditions:

§ 941.1 *Definitions*—(a) *Terms*. The following terms as used herein shall have the following meanings:

(1) The term "Chicago, Illinois, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the cities of Chicago, Evanston, Wilmette, Kenilworth, Winnetka, and Glencoe, all in the State of Illinois.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The term "producer" means any person who produces milk which is received by a handler at a plant which is approved by any health authority for the receiving of milk for sale in the marketing area, or who produces milk which, upon proof furnished satisfactory to the market administrator, is qualified to be received at such plant.

(4) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk or cream in the marketing area; and who, on his own behalf or on behalf of others engages in such handling of milk, or cream therefrom, as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include any cooperative association or handler with respect to the milk of any producer which it causes to be delivered to a plant

from which no milk or cream is disposed of in the marketing area, for the account of such cooperative association or handler, and for which such cooperative association or handler collects payments.

(5) The term "market administrator" means the agency which is described in Sec. 941.2 for the administration hereof.

(6) The term "delivery period" means the current marketing period from the first to the last day of each month, both inclusive.

(7) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

(8) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(9) The term "Secretary" means the Secretary of Agriculture of the United States.

§ 941.2 *Market administrator*—(a) *Designation*. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers*. The market administrator shall:

(1) Administer the terms and provisions hereof; and

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) *Duties*. The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by Sec. 941.9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 4 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 941.3 or (b) made payments pursuant to Sec. 941.8.

(5) Promptly verify the information contained in the reports submitted by handlers.

§ 941.3 *Reports of handlers*—(a) *Submission of reports*. Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 7th day after the end of each delivery period (a) the receipts of milk at each plant from producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.

(2) Within 10 days after the market administrator's request with respect to any producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.

(3) On or before the 20th day after the end of each delivery period, his producer pay roll, which shall show for each producer (a) the total delivery of milk with the average butterfat test thereof, (b) the net amount of payment to such producer made pursuant to Sec. 941.8, and (c) any deductions and charges made by the handler.

(4) On or before the 7th day after the end of such delivery period, the sale or disposition of milk outside the marketing area, pursuant to Sec. 941.5 (c) as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk is shipped, and (f) such other information with respect thereto as the market administrator may require.

(b) *Verification of reports*. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities necessary for the checking of the weighing and sampling of milk and for determining the utilization of milk by the handler.

§ 941.4 *Classification of milk*—(a) *Basis of classification*. All milk purchased or received by a handler from producers, associations of producers, and other handlers, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization*. The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of fluid milk, and all milk not accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all milk, except skimmed milk, disposed of in the form of flavored milk and flavored milk

drinks, all milk used to produce cottage cheese, and all milk used to produce cream which is disposed of in the form of cream (for consumption as cream), ice cream, and ice cream mix.

(3) Class III milk shall be all milk used to produce a milk product other than one of those specified in Class II, and all milk accounted for as actual plant shrinkage, but not to exceed 2 percent of the total receipts of milk from producers.

(b) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler, and milk disposed of by a handler to a person who is not a handler but who distributes milk or manufactures milk products shall be classified as Class I milk: *Provided*, That if the selling handler on or before the 7th day after the end of the delivery period furnishes to the market administrator a statement which is signed by the buyer and seller that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

§ 941.5 *Minimum prices*—(a) *Class prices.* Except as set forth in paragraph (c) of this section and subject to the location adjustment set forth in paragraph (b) of this section, each handler shall pay, at the time and in the manner set forth in Sec. 941.8, for milk purchased or received from producers by such handler at any plant, platform, or loading station located not more than 70 miles from the City Hall in Chicago, not less than the following prices:

^A Class I milk—Add to the price per hundredweight for milk of 3.5 percent butterfat content computed pursuant to the formula as set forth in section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any, 70 cents per hundredweight for the months of July, August, September, October, and November; 55 cents per hundredweight for the months of December, January, February, March, and April; and 45 cents per hundredweight for the months of May and June: *Provided*, That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$1.395 per hundredweight.

Class II milk—Add to the price per hundredweight for milk of 3.5 percent butterfat content computed pursuant to the formula as set forth in section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any, 32 cents per hundredweight for the months of July, August, September, October, and November; 28 cents per hundredweight for the months of December, January, February, March, and April; and 25 cents per

hundredweight for the months of May and June.

Class III milk—Multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 20 percent: *Provided*, That in the event Class III milk is used to produce evaporated or condensed milk handlers shall pay a price per hundredweight computed pursuant to the formula set forth in section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any.

(b) *Location adjustments to handlers.* With respect to milk purchased or received from producers at a plant, platform, or loading station located more than 70 miles from the City Hall in Chicago, which is classified as Class I milk and as Class II milk (and transported to any point within such 70-mile zone), there shall be deducted 2 cents per hundredweight and $\frac{1}{2}$ cent per hundredweight, respectively, for each additional 15 miles or part thereof that such plant, platform, or loading station is located in excess of 70 miles from the City Hall in Chicago. There shall be no location adjustment to handlers with respect to Class III milk. For the purposes of this paragraph Class I milk shall be considered to be that milk received from producers at plants, platforms, or loading stations located nearest the marketing area from which whole milk is shipped to the marketing area.

(c) *Sales outside the marketing area.* The price to be paid by a handler for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be the price, as ascertained by the market administrator, which is being paid in the market where such milk is disposed of, for milk of equivalent use: *Provided*, That in the event such Class I milk is disposed of outside the 70-mile zone from a plant at which milk is received from producers and which is located more than 70 miles from the City Hall in Chicago, such price as ascertained by the market administrator shall be adjusted by an amount equal to the carload freight rate approved by the Interstate Commerce Commission for the movement of milk in 40-quart cans from the shipping point for the plant where such milk is received from producers to the railroad delivery point serving the market where such milk is utilized as Class I milk.

§ 941.6 *Application of provisions*—(a) *Handlers who are also producers.*

(1) No provision hereof shall apply to a handler who is also a producer and who purchases or receives no milk from producers or an association of producers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(2) In the case of a handler who is also a producer and who purchases or receives milk from producers or an association of producers, the market administrator, before making the computations set forth in Sec. 941.7, shall (a) exclude the milk purchased or received by him in each class from other handlers, (b) exclude from his remaining Class I milk and Class II milk up to but not exceeding 95 percent of the quantity of milk produced and disposed of by him, and (c) exclude from his remaining Class III milk the balance of the milk produced and disposed of by him.

(3) The market administrator, in computing the value of milk for any handler pursuant to Sec. 941.7, shall consider as Class III milk any milk or cream received in bulk by such handler from a handler who distributes part of his own production. If the receiving handler disposes of such milk or cream for other than Class III purposes, the market administrator shall add to the total value computed pursuant to Sec. 941.7 the difference between (a) the value of such milk or cream at the Class III price and (b) the value according to its actual usage.

§ 941.7 *Determination of uniform prices to producers*—(a) *Computation of value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of Sec. 941.6, the value of milk for each handler which was purchased or received from producers by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to Sec. 941.5, and (b) adding together the resulting values of each class.

(b) *Computation and announcement of uniform prices.* The market administrator shall compute and announce the uniform price per hundredweight of milk for each delivery period in the following manner:

(1) Combine into one total the respective values of milk computed pursuant to paragraph (a) of this section, for each handler who made the reports pursuant to Sec. 941.3 (a) for such delivery period;

(2) Add the amount of the location differentials applicable pursuant to Sec. 941.8 (g);

(3) Add the amount of cash balance in the producer-settlement fund;

(4) Divide by the total quantity of milk represented in the computations pursuant to paragraph (a) of this section;

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer-settlement fund; and

(6) On or before the 12th day after the end of each delivery period mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the blended price per hundredweight which is the result of

these computations, and (c) the price of Class I milk, Class II milk, and Class III milk used in such computations.

§ 941.8 *Payment for milk*—(a) *Time and method of payment.* On or before the 15th day after the end of each delivery period each handler shall pay each producer, for milk purchased or received during the delivery period, an amount of money representing not less than the total value of such milk, at the uniform price per hundredweight, computed pursuant to Sec. 941.7 (b) and subject to the butterfat differential and location adjustments set forth in this section.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as "the producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) and out of which he shall make all payments to handlers pursuant to paragraphs (d) and (e) of this section.

(c) *Payments to the producer-settlement fund.* On or before the 14th day after the end of each delivery period each handler shall pay to the market administrator the amount by which the total value of the milk purchased or received by him from producers during the delivery period is greater than the amount obtained by multiplying the hundredweight of milk purchased and received from producers by the uniform price.

(d) *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers the amount, if any, by which the total value of such milk purchased or received from producers by such handler is less than the amount obtained by multiplying the hundredweight of such milk purchased or received from producers by such handler by the uniform price. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 15th day after the end of each delivery period, has not received the balance of the payment due him from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(e) *Adjustments of errors in payments.* Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler

for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer, for milk purchased or received by such handler, discloses payment to such producer of less than is required by this section, the handler shall make up such payment to the producer not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential.* If any handler has purchased or received from any producer, during any delivery period, milk having an average butterfat content other than 3.5 percent, such handler, in making the payments pursuant to paragraph (a) of this section to such producer, shall add for each one-tenth of 1 percent of average butterfat content above 3.5 percent not less than, or shall deduct for each one-tenth of 1 percent of average butterfat content below 3.5 percent not more than, 4 cents per hundredweight.

(g) *Location adjustments to producers.* In making payments to producers pursuant to paragraph (a) of this section, handlers shall deduct with respect to all milk purchased or received from producers at a country plant, platform, or loading station located more than 70 miles from the City Hall in Chicago, the amount specified as follows:

	Cents per hundredweight
Within 70 to 85 miles.....	2
Within 86 to 100 miles.....	4
Within 101 to 115 miles.....	6
Within 116 to 130 miles.....	8
Within 131 to 145 miles.....	10
Within 146 to 160 miles.....	12
Within 161 to 175 miles.....	14
For each 15 miles or part thereof beyond 176 miles from the City Hall of Chicago, an additional.....	1/2

§ 941.9 *Expense of administration*—

(a) *Payments by handlers.* As his pro-rata share of the expense of the administration hereof each handler, except those handlers exempt from the provisions hereof as set forth in Sec. 941.6 (a), shall pay to the market administrator, on or before the 15th day after the end of each delivery period, a sum not exceeding 2 cents per hundredweight with respect to all milk purchased or received by him during such delivery period from producers, or produced by him, the exact sum to be determined by the market administrator, subject to review by the Secretary: *Provided*, That each handler which is a cooperative association shall pay such pro-rata share of expense of administration only on that milk of producers actually received at a plant of such cooperative association, or caused

to be delivered by such cooperative association to a plant from which no milk or cream is disposed of in the marketing area.

(b) *Suits by market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expense set forth in this section.

§ 941.10 *Marketing services*—(a) *Marketing service deduction.* In making payments to producers pursuant to Sec. 941.8, each handler, with respect to all milk received from each producer during each delivery period, except as set forth in paragraph (b) of this section, shall deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, such determination to be subject to review by the Secretary, and shall, on or before the 15th day after the end of such delivery period, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk received from, such producers.

(b) *Marketing service deductions with respect to members of a producers' cooperative association.* In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from payments made pursuant to Sec. 941.8 as may be authorized by such producers, and pay over on or before the 15th day after the end of each delivery period such deductions to the associations rendering such service of which such producers are members.

§ 941.11 *Market advisory committee.* (a) Subsequent to the effective date hereof, the market administrator may select a representative committee of the industry for purposes (1) of recommendation of amendments to this order, and (2) for conference, counsel, and advice.

§ 941.12 *Effective time, suspension, or termination of order*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.

(b) *Suspension or termination of order.* The Secretary may suspend or terminate this order or any provision hereof whenever he finds that this order or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event,

terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements, and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 941.13 *Liability*—(a) *Liability of handlers.* The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

Now, therefore, Harry L. Brown, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of

Columbia, on this 28th day of August 1939, and declares this order to be effective on and after the 1st day of September 1939.

[SEAL]

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3169; Filed, August 29, 1939;
9:12 a. m.]

TITLE 8—ALIENS AND CITIZENSHIP IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C-13]

VOLUNTARY EMIGRATION OF CERTAIN FILIPINOS FROM THE UNITED STATES

Pursuant to the authority contained in Section 3 of the Act of July 27, 1939 (Public, No. 241, c. 390, 1st sess., 76th Cong.), entitled "An Act To provide means by which certain Filipinos can emigrate from the United States", Title 8, Code of Federal Regulations, Chapter I—Immigration and Naturalization Service—Subchapter A—Immigration Rules and Regulations—Sections 31.1 through 31.6 are hereby amended to read as follows:

§ 31.1 *Who may be returned to the Philippine Islands.* Any person who (a) is a Filipino, (b) was born in the Philippine Islands, (c) resided in any State, Territory or the District of Columbia on July 27, 1939, (d) is not a citizen of the United States, and (e) desires to return to the Philippine Islands is entitled to be returned to Manila, Philippine Islands, at the expense of the United States as to transportation and maintenance, and may make application to the Secretary of Labor for such return. An applicant against whom an order or warrant of deportation is outstanding shall not be entitled to exercise this privilege unless the Secretary of Labor cancels such order and/or warrant and permits the applicant to depart from the United States voluntarily.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.2 *Applications for return to the Philippine Islands.* Applications must be prepared in duplicate on Form 695, and received in the office of the Immigration and Naturalization Service nearest the applicant's place of residence on or before December 1, 1940. In the case of a family, a separate application should be made by each member thereof who is entitled to and desires to secure the benefits of the statute. The application of a child under twenty-one years of age shall be signed by the father, if living; if not, then by the mother. If both parents are dead, an investigation shall be conducted to determine whether the minor applicant is acting upon his own

* Secs. 31.1 to 31.7, inclusive, issued under the authority contained in sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 162; 8 U.S.C. 102, 222. Statutes interpreted or applied and statutes giving special authority are listed in parentheses at the end of specific sections.

volition. If there are persons available who are interested in the applicant, their statements shall be taken. Applications properly executed shall be forwarded promptly to the Central Office.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.3 *Photographs to accompany application.* When practicable, each application should be accompanied by four unretouched and unmounted photographs of the applicant, on white background, 2 inches in width by 2 inches in length and approximately 1¼ inches from the top of head to point of chin, representing applicant without hat and showing full front view. Photographs should be signed (not printed) by the applicant across the front in such manner as not to obscure the features. In the event it is not practicable for the applicant, because of lack of funds or the remoteness of photographic facilities, to furnish photographs at the time he submits his application for removal, such application should nevertheless be accepted, with the understanding that the applicant will be photographed by this Service at the seaport of embarkation.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.4 *Transportation; ports of departure.* When the application for removal is approved, the Central Office will make arrangements for the transportation and maintenance of the applicants from the place of residence to a port on the west coast of the United States, if the applicant resides in the United States or the District of Columbia or the Territory of Alaska, and from such port to Manila, Philippine Islands; if the applicant resides in the Territory of Hawaii, arrangements will be made for his transportation and maintenance from place of residence to the port of Honolulu, if he be not a resident of said port, and from the port of Honolulu to Manila, Philippine Islands. Transportation to Manila shall be by United States Army or Navy transports, whenever space is available; when not, then by any ship designated by the Central Office pursuant to the contract or contracts entered into by the Secretary of Labor in accordance with Sec. 2 of the Act of July 27, 1939 (Public, No. 241, c. 390, 1st sess., 76th Cong.). The following are designated as ports of departure from the United States: San Francisco and Los Angeles, California, and Seattle, Washington. Honolulu is designated as the port of departure from the Territory of Hawaii. The particular port, the date of departure therefrom and the vessel on which the departure will be effected will be determined in accordance with the facts in individual cases.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.5 *Custody; consent to; report of departure.* Any applicant for whose return to the Philippine Islands the Secretary of Labor enters an order on Form 696 shall be required, before the journey

from the place of residence begins, to sign, in the presence of a witness or witnesses, the provisions on the reverse side of said order, signifying his voluntary consent to placing himself in the custody, for return to Manila, of an officer or employee of the Immigration and Naturalization Service and/or such other person as may be designated. In the case of a minor applicant, the officer or employee before whom the signing takes place shall satisfy himself that the minor actually desires to be returned. When telegraphic authority for removal is received by a field officer and the applicant is ready to commence the journey prior to the receipt of the formal order of removal, the applicant should be required to sign the "consent" on the reverse of a blank Form 696. In all instances, the consent to return to the Philippine Islands should be an entirely free and voluntary act on the part of the person required to give it. Officers and employees of the Immigration and Naturalization Service are forbidden to persuade or coerce consent to voluntary emigration under the provisions of the Act of July 27, 1939 (Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253), and these regulations. Persons consenting to be returned to the Philippine Islands, or in whose behalf such consent is given, in the manner provided in this section, shall be subject to the control and supervision of an officer or employee of the Immigration and Naturalization Service during the journey from the place of residence to any of the ports designated in § 31.4, and to the control and supervision of the officer in charge of any vessel to which they shall be delivered by the immigration and naturalization officer in charge of any such ports for transportation to Manila, Philippine Islands. Departures from such ports should be reported immediately to the Central Office by the immigration and naturalization officers in charge so that prompt reports may be made to the Secretary of State for the information of the consular representative of the United States in the Philippine Islands.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.6 *Report of arrival at Manila.* Officers in charge of vessels shall use Form 697 in reporting, by mail or otherwise, to the immigration and naturalization officer in charge at the port of embarkation, of the date of arrival and disembarkation at Manila, Philippine Islands, of Filipinos transported thereto under §§ 31.1-31.6.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

§ 31.7 *Certification to the Secretary of Navy and Secretary of War.* The Secretary of Labor shall certify to the Secretary of the Navy and the Secretary of War the name of all Filipinos who have been found eligible for return to Manila, Philippine Islands, under the Act of July 27, 1939 (Public, No. 241, c.

390, 1st sess., 76th Cong.), and who consent to be returned thereto in accordance with the provisions of this part.* (Secs. 1, 3, Public, No. 241, c. 390, 1st sess., 76th Cong.; 48 U.S.C. 1251, 1253)

This General Order supersedes and repeals General Order No. 231, dated March 25, 1936 (1 F.R. 76), and General Order No. 258, dated February 14, 1938 (3 F.R. 413), which amended the first-mentioned General Order.

GERARD D. REILLY,
Acting Secretary.

Approval recommended:

EDW. J. SHAUGHNESSY,
Deputy Commissioner of
Immigration and Naturalization.

[F. R. Doc. 39-3164; Filed, August 28, 1939;
2:37 p. m.]

[General Order No. C-14]

REGISTRY OF ALIENS SUBSEQUENT TO ENTRY INTO THE UNITED STATES

Pursuant to the authority contained in Section 1 (a) of the Act of March 2, 1929 (45 Stat. 1512; 8 U.S.C. 106a), Title 8, Code of Federal Regulations, Chapter I—Immigration and Naturalization Service—Subchapter A—Immigration Rules and Regulations—Sections 26.2, 26.4, and 26.10 (Rule 27, Paragraphs 2, 4, and 10 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), are amended by substituting "July 1, 1924," in lieu of "June 3, 1921" wherever the latter date appears in these sections, and by substituting "June 30, 1924" in lieu of "June 2, 1921" in the caption of section 26.10. (Act of Aug. 7, 1939, Public No. 315, c. 517)

EDW. J. SHAUGHNESSY,
Deputy Commissioner of
Immigration and Naturalization.

Approved:

GERARD D. REILLY,
Acting Secretary.

[F. R. Doc. 39-3165; Filed, August 28, 1939;
2:37 p. m.]

TITLE 43—PUBLIC LANDS GENERAL LAND OFFICE

TEMPORARY WITHDRAWAL FOR STOCK DRIVEWAY PURPOSES NO 4, AND STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 1, REDUCED

AUGUST 18, 1939.

Departmental orders of October 27, 1917, and March 18, 1918, withdrawing certain lands in Montana for stock driveway purposes under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, are hereby revoked in so far as they affect the following-described lands:

PRINCIPAL MERIDIAN

T. 5 S., R. 2 W.,
sec. 2, all,
sec. 3, S½,
sec. 10, W½,
sec. 17, all,
sec. 20, NE¼,
sec. 21, NW¼,
sec. 28, N½SW¼, SE¼SW¼, SE¼,
sec. 33, E½, SE¼NW¼, E½SW¼, SW¼SW¼;
T. 6 S., R. 2 W.,
sec. 4, NE¼NW¼, W½W½,
sec. 8, E½, S½SW¼,
sec. 18, N½, N½S½,
sec. 20, E½;
aggregating 4,392.65 acres.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 39-3173; Filed, August 29, 1939;
9:45 a. m.]

TITLE 44—PUBLIC PROPERTY AND WORKS

FEDERAL WORKS AGENCY—PUBLIC WORKS ADMINISTRATION

[Special Order No. PWA-3]

CERTIFICATION OF VOUCHERS

AUGUST 25, 1939.

1. The temporary agreement in accordance with which the Chief Disbursing Officer of the Treasury Department recognized the signature of officials of the Federal Emergency Administration of Public Works heretofore authorized to certify vouchers for payment pending the receipt of authorizations under the Federal Works Agency is hereby confirmed and terminated.

2. The following authorizations for the Public Works Administration shall be effective immediately:

(a) E. W. Clark, Acting Commissioner of Public Works, J. J. Madigan, Executive Officer, and H. M. Gillman, Jr., Assistant Executive Officer, are each authorized to act singly for the Public Works Administration in authorizing the disbursement of funds in accordance with loan and/or grant agreements and in authorizing the Treasurer of the United States to transmit by wire to a designated Federal Reserve Bank or branch funds made available to such Treasurer by check for such purpose. Also to certify all vouchers for payment from the funds appropriated for the administrative expenses of the Public Works Administration, requisitions to make such funds available, requests for transfers to the accounts of disbursing officers, and to examine and approve administratively accounts as required by Sections 12 and 22 of the Act of July 31, 1894 (28 Stat. 209-211) before their transmission to the General Accounting Office for final settlement.

(b) The said E. W. Clark, the said J. J. Madigan, and the said H. M. Gillman, Jr., in their respective capacities as aforesaid, are the only officials of the Public Works Administration with authority to authorize the disbursement of

funds in accordance with loan and/or grant agreements and to authorize the Treasurer of the United States to transmit by wire to a designated Federal Reserve Bank or branch funds made available to such Treasurer for such purpose.

(c) G. William Comfort, Assistant to Executive Officer, and in his absence or in his stead, A. R. Baker, Assistant to Executive Officer, is authorized to certify all vouchers for payment from the funds appropriated for the administrative expenses of the Public Works Administration.

(d) George H. Butler, Director of the Division of Investigations, and in his absence or in his stead, Charles H. Saffell, Associate Director, is authorized to certify for payment vouchers for travel expenses of the employees of the Division of Investigations and for the miscellaneous expenses of the Division of Investigations.

(e) Albin J. Plant, Chief Project Accountant, and in his absence or in his stead, Charles L. Ruppert, Jr., Assistant Chief Project Accountant, is authorized to certify for payment vouchers for travel expenses of the employees of the Division of Accounts.

(f) R. C. Hardman, PWA Representative for Puerto Rico, and in his absence, Ricardo Skerrett, Jr., Assistant PWA Representative for Puerto Rico, is authorized to certify for payment from the accounts of the local disbursing clerk all vouchers for the administrative expenses of the Public Works Administration in Puerto Rico.

(g) J. G. Shepard, Senior Engineer, and in his absence, Gordon L. Wildes, Engineer, is authorized to certify for payment from the accounts of the local disbursing clerk all vouchers for the administrative expenses of the Public Works Administration in Alaska.

(h) Karl A. Sinclair, PWA Representative for Hawaii, and in his absence, Fred O. Young, Engineer, is authorized to certify for payment from the accounts of the local disbursing clerk all vouchers for the administrative expenses of the Public Works Administration in Hawaii.

(i) All officials of the Public Works Administration authorized to certify for payment vouchers for expenses, including charges for long distance telephone service, are authorized to certify also as to the necessity for the service in the interest of the Government, as required by Section 4 of the Interior Department Appropriation Act, 1940.

(j) J. J. Madigan, Executive Officer, H. M. Gillman, Jr., Assistant Executive Officer, G. William Comfort, Assistant to Executive Officer, and A. R. Baker, Assistant to Executive Officer, are each authorized to sign Procurement Division purchase authorizations issued in connection with the ordering of equipment and supplies for the Public Works Administration.

(k) G. William Comfort, Assistant to Executive Officer, and in his absence or in his stead, A. R. Baker, Assistant to

Executive Officer, is authorized to certify to the Civil Service Commission as to the correctness of retirement records and accounts of the personnel of the Public Works Administration.

3. All previous authorizations of the character herein described, applicable to the Public Works Administration and not included herein, are hereby revoked.

JOHN M. CARMODY,
Federal Works Administrator.

[F. R. Doc. 39-3182; Filed, August 29, 1939;
12:43 p. m.]

TITLE 50—WILDLIFE

BUREAU OF FISHERIES

SUBCHAPTER A—ALASKA FISHERIES

PART 208—KODIAK AREA FISHERIES

Section 208.26 is hereby amended to prohibit commercial fishing for herring after 6 o'clock postmeridian August 22, as follows:

§ 208.26 *Closed season, commercial herring fishing, except by gill nets or for bait purposes.* Commercial fishing for herring, except for bait purposes, is prohibited for the remainder of the calendar year after 6 o'clock postmeridian August 22: *Provided*, That this prohibition shall not apply to the use of gill nets. (Sec. 1, 44 Stat. 752; 48 U.S.C. 221)

HAROLD L. ICKES,
Secretary of the Interior.

AUGUST 22, 1939.

[F. R. Doc. 39-3172; Filed, August 29, 1939;
9:45 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Division of Marketing and Marketing Agreements.

DETERMINATION WITH RESPECT TO ORDER REGULATING HANDLING OF MILK IN CHICAGO, ILLINOIS, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order,¹ both of which regulate the handling of milk in the Chicago, Illinois, marketing area, would tend to effectuate the declared policy of the act, gave, on the 9th day of June 1939, notice of a public hearing which was held in Chicago, Illinois, on June 26, 27, 28, 29, and 30, 1939, and at said time and place all interested parties were afforded an opportunity to be heard on said proposed

¹ See page 3764.

marketing agreement and proposed order; and

Whereas, after said hearing and after the tentative approval by the Secretary, on August 18, 1939, of a marketing agreement, handlers of more than fifty percent of the volume of milk covered by such proposed order, which is marketed within the Chicago, Illinois, marketing area, refused or failed to sign such tentatively approved marketing agreement relating to milk:

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by said act, hereby determines:

1. That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of April 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, Harry L. Brown, Acting Secretary of Agriculture of the United States, has executed this determination in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 24th day of August 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT
The President of the United States.

Dated August 26, 1939.

[F. R. Doc. 39-3167; Filed, August 29, 1939;
9:10 a. m.]

PROCLAMATION CONCERNING BASE PERIOD TO BE USED IN CONNECTION WITH EXECUTION OF MARKETING AGREEMENT AND ISSUANCE OF ORDER REGULATING HANDLING OF MILK IN CHICAGO, ILLINOIS, MARKETING AREA

Pursuant to the powers conferred upon the Secretary of Agriculture by the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order¹ regulating the handling of milk in the Chicago,

¹ See page 3764.

Illinois, marketing area, the purchasing power of such milk during the base period August 1909-July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1919-July 1929; and the period August 1919-July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Chicago, Illinois, marketing area, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of milk in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 28th day of August 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 39-3168; Filed, August 29, 1939;
9:11 a. m.]

DETERMINATION WITH RESPECT TO ORDER REGULATING HANDLING OF MILK IN KANSAS CITY, MISSOURI, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement, as amended, and the issuance of an order, as amended,¹ both of which regulate the handling of milk in the Kansas City, Missouri, marketing area, would tend to effectuate the declared policy of the act, gave, on the 7th day of March 1939, notice of a public hearing which was held in Kansas City, Missouri, on the 16th and 17th days of March 1939 and which was reopened in Kansas City, Missouri, on the 22d, 23d, and 24th days of May 1939, and at said time and place all interested parties were afforded an opportunity to be heard on said proposed marketing agreement, as amended, and proposed order, as amended; and

Whereas, after said hearing and after the tentative approval by the Secretary, on July 26, 1939, of a marketing agreement, as amended, handlers of more than fifty percent of the volume of milk covered by such proposed order, as amended, which is marketed within the Kansas City, Missouri, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk:

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by said act, hereby determines;

1. That the refusal or failure of said handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

2. That the issuance of the proposed order, as amended, is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

3. That the issuance of the proposed order, as amended, is approved or favored by over two-thirds of the producers who, during the month of February 1939, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof Harry L. Brown, Acting Secretary of Agriculture of the United States, has executed this determination in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 26th day of August 1939.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT
The President of the United States.

Dated, August 26, 1939.

[F. R. Doc. 39-3170; Filed August 29, 1939;
9:14 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of August, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

[Docket No. 3744]

IN THE MATTER OF JOHN B. CANEPA COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence

in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, September 20, 1939, at one o'clock in the afternoon, of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 39-3166; Filed, August 28, 1939;
3:46 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte 127]

STATUS OF PUBLIC STOCKYARD COMPANIES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 4th day of August, A. D. 1939,

It appearing, That the Commission on July 11, 1938,¹ entered upon an investigation concerning the status of public stockyard companies, in respect to the transportation services performed at the stockyards of said companies, in connection with the loading and unloading of carload shipments of livestock transported by railroad in interstate commerce to and from the public yards of said stockyard companies; and relations between said stockyard companies and common carriers by railroad, and between said stockyard companies and persons or corporations receiving at or shipping from said public stockyards, livestock transported by railroad in interstate commerce to and from said stockyards:

It further appearing, That in order to effectuate the intent and purpose of the investigation, it is desirable and necessary to embrace within the scope of the investigation additional public stockyard companies;

It is ordered, That the commission, upon its own motion, enter upon an investigation into and concerning the status of public stockyard companies hereinafter named as common carriers by railroad subject to the Interstate Commerce Act, in respect to the transportation services performed at said stockyards in connection with the unloading and loading of carload shipments of livestock transported by railroad in interstate commerce to and from the public yards of said stockyard companies, said investigation to include a full inquiry into—

¹ See page 3759.

¹ 3 F.R. 2209 DI.

1. The relation, direct or indirect, between any of said stockyard companies or their officials and (a) common carriers by railroad, and (b) any person, firm or corporation receiving at or shipping from said stockyards livestock transported by railroad in interstate commerce to and from said stockyards.

2. The management or operation of said stockyard companies by common carriers by railroad, or by officials, employees or subsidiary or affiliated companies of common carriers by railroad, and the management or operation of common carriers by railroad by said stockyard companies, or by officials, employees, or subsidiary or affiliated companies of said stockyard companies.

3. Operating practices in connection with the transportation services performed by said stockyard companies.

4. Whether said stockyard companies are common carriers by railroad subject to the provisions of the Interstate Commerce Act in respect of the transportation services performed by them, or are violating any provisions of the Interstate Commerce Act.

It is further ordered, That this order be served upon the following stockyard companies which operate public stockyards at the points named:

Jersey City Stock Yards Company,
Jersey City, N. J.

Newark Stock Yards, Kearny (Newark), N. J.

New England Stock Yards, Somerville, Mass.

All Class I common carriers by railroad in the United States subject to the Interstate Commerce Act.

And it is further ordered, That this proceeding be assigned for further hearing at such times and places as the Commission may hereafter direct.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 39-3163; Filed, August 28, 1939;
2:28 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1939.

[File No. 31-226]

IN THE MATTER OF MONONGAHELA WEST PENN PUBLIC SERVICE COMPANY

ORDER GRANTING EXEMPTION

Monongahela West Penn Public Service Company having made application for exemption from the provisions of the Public Utility Holding Company Act of 1935 pursuant to Section 3 (a) (2) thereof; a hearing having been held on

said application after appropriate public notice; requests for specific findings of fact and briefs having been waived by the parties; the record having been duly considered by the Commission, and the Commission having made appropriate findings of fact;

It is ordered, That the Monongahela West Penn Public Service Company be, and it hereby is, exempted from those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling or holding with power to vote 10 per cent or more of the outstanding voting securities of The Marietta Electric Company, The State Line Gas Company, The West Maryland Power Company, and Monterey Utilities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3175; Filed, August 29, 1939;
10:54 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1939.

[File No. 51-21]

IN THE MATTER OF SECURITIES CORPORATION GENERAL

ORDER APPROVING APPLICATION

Securities Corporation General, a subsidiary of International Utilities Corporation, a registered holding company, having filed an application pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-12C-2 adopted thereunder, for approval of the declaration and payment out of capital or unearned surplus (a) of a regular quarterly dividend at the rate of \$1.75 per share on its Cumulative Preferred Stock, \$7.00 Series, and (b) of a regular quarterly dividend at the rate of \$1.50 per share on its Cumulative Preferred Stock, \$6.00 Series; and

Public hearings having been held upon said application after appropriate notice; the Commission having considered the record in this matter and having made and filed its findings and opinion herein:

It is ordered, That said application be and hereby is approved subject to the following conditions:

(1) That the payment of the proposed dividends on the Cumulative Preferred Stock, \$7.00 Series, and on the Cumulative Preferred Stock, \$6.00 Series, shall be charged to capital surplus, and that the amount of such dividends so charged shall be restored to capital surplus from

¹ 4 F. R. 1721 DI.

² 4 F. R. 2952 DI.

the first available net income after December 31, 1938; and

(2) That the applicant shall at the time such dividend is paid notify the holders of the Cumulative Preferred Stock, \$7.00 Series, and the holders of the Cumulative Preferred Stock, \$6.00 Series, that the dividend payment is made subject to the above conditions; and

(3) That the applicant within ten days after the payment of the dividend, file with the Commission a certificate of notification showing that such dividend was declared and paid in accordance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3174; Filed, August 29, 1939;
10:54 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1939.

[File No. 43-195]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO

ORDER ALLOWING DECLARATION TO BECOME EFFECTIVE REGARDING ISSUE OF BONDS, DEBENTURES AND COMMON STOCK BY SUBSIDIARY OF A REGISTERED HOLDING COMPANY

Public Service Company of Colorado, a subsidiary of Cities Service Power & Light Company, a registered holding company, having filed with this Commission a declaration and amendments thereto pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issuance by declarant of \$40,000,000 of First Mortgage Bonds, 3½% Series, due 1964, \$12,500,000 aggregate principal amount of 4% Sinking Fund Debentures due 1949, and \$2,190,000 par value Common Stock; public hearing thereon having been duly held after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, subject, however, to the condition that the issue of the aforesaid bonds, debentures and common stock shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration as amended;

And it is further ordered, That in connection with the issuance of securities and the other transactions herein approved, the following terms and condi-

¹ 4 F. R. 3674 DI.

tions are severally imposed upon declarant:

(1) That except as this Commission may by order or orders from time to time permit, so long as any of the declarant's First Mortgage Bonds, 3½% Series due 1964, are outstanding under the indenture between declarant and Guaranty Trust Company of New York, as Trustee, the declarant shall not declare or pay any dividends (other than dividends payable in shares of its common stock), or make any other distribution on any of its common stock, or purchase any shares of its common stock (other than with the proceeds of additional common stock financing) unless the amount expended by the declarant for maintenance and repairs, plus provision for reserves for renewals and replacements or depreciation, during the period from the date of the indenture to the date of the proposed payment of such dividend or making of such distribution or purchase, shall equal the sum of fifteen per cent. (15%) of the gross electric operating revenues and ten per cent. (10%) of the gross gas and steam operating revenues (as said terms are defined in Section 8 of Article IV of the indenture) during such period. The foregoing shall also apply to any successor of the declarant, except that any earned surplus of declarant at the date of such succession which may become frozen as capital surplus as a result of such succession shall be considered as earned surplus in determining whether the requirements of this condition have been satisfied.

The provisions contained in the foregoing paragraph shall be subject to revocation or modification by this Commission at any time upon its own motion or upon application of the declarant;

(2) That no charges shall be made against earned surplus accumulated under the restrictive provisions of subdivision (c) of Section 9 of Article IV of the debenture indenture, even after the retirement of the debentures and the discharge of said indenture, except for adjustments inherent in declarant's fixed assets and investments in subsidiaries consolidated at February 28, 1939, unless (a) such charge has been previously authorized by appropriate resolution by declarant's board of directors and (b) thirty days' prior notice of the making of such charge be given to this Commission. The Commission reserves jurisdiction on the receipt of such notice, in and as part of the proceedings herein, after notice given within thirty days and opportunity for hearing, to disapprove any such charge on the basis of the record herein and any additional evidence that may be adduced by any interested party. And in the event the Commission has notified declarant to

show cause why such charge shall not be disapproved, the charge in question shall not be made until expressly authorized by order of this Commission;

(3) That the balance of declarant's earned surplus to be restricted under Section 9 of Article IV of the proposed indentures, on the effective date of such indentures, shall not be less than \$644,133.32 after making the proposed credit to declarant's property account of \$469,748.45 as stipulated by declarant;

(4) That until further order by this Commission, all corporate and consolidated balance sheets hereafter made public by declarant shall contain appropriate reference (in a form approved by the Commission) to intercompany appreciation charged to declarant's net assets;

(5) That the Commission's findings and opinion on this declaration shall not in any manner diminish the Commission's power under Section 11 (b) of the Public Utility Holding Company Act of 1935. Jurisdiction is hereby reserved to consider, in appropriate proceedings under that section or otherwise, whether voting power is fairly or equitably distributed among declarant's security holders and to confer voting power upon the outstanding preferred stock and the bonds and debentures issued under this declaration to the extent that it may appear appropriate to do so.

(6) Jurisdiction is hereby reserved with respect to underwriting contracts, price and spread, and fees and expenses.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3176; Filed, August 29, 1939;
10:54 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of August, A. D. 1939.

[File No. 34-33]

IN THE MATTER OF UTILITIES POWER &
LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 11 (g) and Rule U-12E-5 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the Protective Committee for Preferred Stockholders of Utilities Power and Light Corporation;

It is ordered, That a hearing on such matter be held on September 12, 1939, at 10:30 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1939.

The matter concerned herewith is in regard to a declaration pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 and Rule U-12E-5 with respect to the solicitation of proxies and other authorizations relating to the plan of reorganization for Utilities Power & Light Corporation, dated February 1, 1939 and amended June 30, 1939 and July 10, 1939, which was approved on certain conditions by this Commission on July 26, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3177; Filed, August 29, 1939;
10:54 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of August, A. D. 1939.

[File No. 52-9]

IN THE MATTER OF UTILITIES POWER &
LIGHT CORPORATION

NOTICE OF AND ORDER FOR RECONVENING OF
HEARING

Atlas Corporation having filed (a) an application pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 for approval of a plan of reorganization of Utilities Power & Light Corporation, a registered holding company (b) an application pursuant to Section 11 (g) of said Act for a report on said plan and (c) a declaration pursuant to Rule U-12E-5 with respect to solicitation of proxies and other authorizations with respect to said plan;

Such matter having been consolidated with certain related matters for purposes of hearing and a joint hearing having been had;

The Commission having on July 26, 1939 entered an order wherein *inter alia* such application by Atlas Corporation

pursuant to Section 11 (f) was granted upon certain conditions and wherein jurisdiction was reserved with respect to such application pursuant to Section 11 (g) and such declaration pursuant to Rule U-12E-5;

It appearing that further hearing should be had with respect to such application pursuant to Section 11 (g) and such declaration pursuant to Rule U-12E-5;

It is ordered, That the before-mentioned hearing be reconvened, but only with respect to the proceeding having file number 52-9, for the purpose of receiving additional evidence with respect to such application pursuant to Section 11 (g) and such declaration pursuant to Rule U-12E-5;

It is further ordered, That such reconvened hearing be held on September 12, 1939 at 10:15 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3178; Filed, August 29, 1939;
10:55 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1939.

[File No. 31-360]

**IN THE MATTER OF AMERICAN & FOREIGN
POWER COMPANY INC.**

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 3 (a) (5) and 3 (b) of the Public Utility Holding Company Act of 1935, having

been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 27, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 21, 1939.

The matter concerned herewith is in regard to the requested exemption pursuant to Section 3 (a) (5) of said Act of American & Foreign Power Company Incorporated (over 10% of whose outstanding voting securities are owned by Electric Bond and Share Company, a registered holding company) on its own behalf and on behalf of every one of its subsidiary companies which is a holding company, as defined in Section 2 (a) (7) of said Act, as holding companies, from any and all provisions of said Act and from all the several obligations, duties, liabilities and disabilities imposed upon them thereby and further exempting each and every one of the subsidiary companies, as such, of American & Foreign Power Company Incorporated and of each and every one of its subsidiary holding companies from any and all provisions of said Act and from all the several obligations, duties, liabilities and disabilities imposed upon them thereby; and with regard to the requested exemption pursuant to Section 3 (b) of the Act of American & Foreign Power Company Incorporated on its own behalf and behalf of every one of its subsidiary companies from any and all provisions of said Act which may be applicable to them, or any of them, as subsidiary companies of Electric Bond and Share Company and from all the several obligations, duties, liabilities and disabilities thereby imposed upon them as such subsidiary companies.

The application states that American & Foreign Power Company Incorporated,

a Maine corporation, owns and controls, either directly or through the medium of subsidiary holding companies, the securities of public-utility companies operating in thirteen foreign countries, viz., Argentina, Brazil, Chile, China, Columbia, Costa Rica, Cuba, Ecuador, Guatemala, India, Mexico, Panama and Venezuela. It is further stated that neither the applicant nor any of its subsidiary companies owns or operates any properties located in the United States used for the generation, transmission or distribution of electrical energy for sale or for the production, transportation or distribution of natural or manufactured gas; nor does applicant or any of its subsidiary companies own or operate any properties of any kind which are physically inter-connected with properties in the United States.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3179; Filed, August 29, 1939;
10:55 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1939.

[File No. 44-42]

**IN THE MATTER OF PEOPLES LIGHT AND
POWER COMPANY**

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (c) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 15, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any

person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 10, 1939.

The matter concerned herewith is in regard to the acquisition and retirement of such of the applicant's Collateral Lien Bonds, Series A, due 1961, as it may purchase on tender and, to the extent necessary, in the open market, with \$410,000. The application states that the applicant proposes to advertise for tenders of said bonds pursuant to the requirements of its trust indenture and itself to tender all or part of the \$215,000 principal amount of the bonds now held in its treasury, and that, including said treasury holdings, there are presently outstanding \$3,907,500 principal amount of said bonds.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3180; Filed, August 29, 1939;
10:55 a. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1939.

[File No. 32-166]

**IN THE MATTER OF METROPOLITAN EDISON
COMPANY AND NORTHERN PENNSYLVANIA
POWER COMPANY**

NOTICE OF AND ORDER FOR HEARING

Supplemental applications under Rules U-10A-1 and U-12F-1 pursuant to section 167—3

tions 10 (a) and 12 (f), respectively, of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on September 2, 1939, at 9:30 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before the day of hearing.

The matter concerned herewith is in regard to the transfer by Northern Pennsylvania Power Company to Metropolitan Edison Company of the following securities:

The Mohawk Valley Company (now NY PA NJ Utilities Company) 6% de-

bentures of 2031 in the principal amount of \$53,300;

The Mohawk Valley Company 6% Consolidated Refunding Bonds of 1981 in the principal amount of \$406,100;

The Waverly Electric Light, Heat & Power Company, 600 shares of common stock, having book value of \$100,000;

J. P. Ward Foundry Company, 10 shares of 6% Cumulative Preferred Stock, having par value of \$50 per share;

The Utility Management Corporation, 1840 shares of common stock;

being part of a plan of merger whereby Northern Pennsylvania Power Company will transfer all its property and franchises to Metropolitan Edison Company—the transferee to assume all the liabilities of the transferor and to credit to its capital surplus account or to its common stock account the difference between all assets acquired and all liabilities assumed, less revaluations and write-ups.

Both Northern Pennsylvania Power Company and Metropolitan Edison Company are public utility companies and wholly owned subsidiaries of NY PA NJ Utilities Company, a registered holding company in the associated Gas and Electric Company system.

The plan of merger has heretofore been approved by the Pennsylvania Public Utility Commission and by the Federal Power Commission as to matters within their respective jurisdictions; and this Commission is asked, in the instant proceedings, to approve all phases of the plan of merger over which it has jurisdiction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-3181; Filed, August 29, 1939;
11:49 a. m.]

